IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5184 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

A M C

Versus

SECRETARY

Appearance:

1. Special Civil Application No. 5184 of 1994

Mr. D.C. Raval for MR MR ANAND for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 16/10/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Raval for Mr. M.R. Anand for the petitioner. Respondent has been served but

has not appeared before this court either in person or through any advocate when the matter was taken up for hearing.

The petitioner corporation has challenged the award made by the Industrial Tribunal in Reference (IT) No. 340 of 1984 dated 16th September, 1993 wherein the tribunal has granted motor cycle allowance to the respondent with effect from 16th September, 1993.

Mr. Raval appearing for the petitioner has submitted that by order dated 2nd April, 1990, the petitioner was transferred from the Sardar Vallabhbhai Stadium to Naranpura T.P. Scheme No. 29 FP No. 74 Ground. Thereafter, he remained absent and has not reported at the place of his transfer and was remaining absent and was not handing over quarter and some proceedings were initiated by the corporation and, thereafter, the respondent has been removed from service by order dated 22nd May, 1998. He has produced copy of the order of removal of the respondent dated 22nd May, 1998 as well as the copy of the notice served upon the respondent by RPAD on the record of this petition. The documents produced by him are ordered to be taken on record. He has submitted that the notice was given by the advocate for the corporation in the year 1998 wherein these details have been mentioned by the advocate for the petitioner corporation. In view of these development, it is his submission that from 2nd April, 1990 onward, the respondent has been remaining absent and, thereafter, he has been dismissed from service. He has submitted that in view of these development, the award made by the tribunal for granting motor cycle allowance with effect from 16th September,1993 is not required to be implemented by the corporation. He has submitted that at present, the respondent is not working in the corporation and, therefore, there is no need to comply with the award made by the tribunal in favour of the respondent.

Considering the submissions made by Mr. Raval and also considering the documents placed by him on the record of this petition, there is no need to comply with the award made by the tribunal in favour of the respondent workman. With this clarification, present petition is disposed of with a liberty in favour of the petitioner to revive this petition by filing mere note in the Registry of this Court. Rule is discharged with no order as to costs. Ad.interim relief if any shall stand vacated.

Dt.16.10.2002. (H.K.Rathod,J.)

Vyas